

SB0057



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0057

Introduced 1/31/2007, by Sen. James F. Clayborne, Jr.

SYNOPSIS AS INTRODUCED:

20 ILCS 3501/801-10
20 ILCS 3501/830-25
20 ILCS 3501/830-35

Amends the Illinois Finance Authority Act. Defines the term "energy-related agribusiness" to include fuel processing and development facilities using agricultural commodities, vegetable oils, animal fats, or biomass feedstocks. Authorizes State Guarantees for loans to energy-related agribusinesses. Sets limits on these guarantees and provides for review and renewal.

LRB095 05151 RCE 25222 b

FISCAL NOTE ACT
MAY APPLY

STATE DEBT
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Finance Authority Act is amended by
5 changing Sections 801-10, 830-25, and 830-35 as follows:

6 (20 ILCS 3501/801-10)

7 Sec. 801-10. Definitions. The following terms, whenever
8 used or referred to in this Act, shall have the following
9 meanings, except in such instances where the context may
10 clearly indicate otherwise:

11 (a) The term "Authority" means the Illinois Finance
12 Authority created by this Act.

13 (b) The term "project" means an industrial project, housing
14 project, public purpose project, higher education project,
15 health facility project, cultural institution project,
16 agricultural facility or agribusiness, and "project" may
17 include any combination of one or more of the foregoing
18 undertaken jointly by any person with one or more other
19 persons.

20 (c) The term "public purpose project" means any project or
21 facility including without limitation land, buildings,
22 structures, machinery, equipment and all other real and
23 personal property, which is authorized or required by law to be

1 acquired, constructed, improved, rehabilitated, reconstructed,
2 replaced or maintained by any unit of government or any other
3 lawful public purpose which is authorized or required by law to
4 be undertaken by any unit of government.

5 (d) The term "industrial project" means the acquisition,
6 construction, refurbishment, creation, development or
7 redevelopment of any facility, equipment, machinery, real
8 property or personal property for use by any instrumentality of
9 the State or its political subdivisions, for use by any person
10 or institution, public or private, for profit or not for
11 profit, or for use in any trade or business including, but not
12 limited to, any industrial, manufacturing or commercial
13 enterprise and which is (1) a capital project including but not
14 limited to: (i) land and any rights therein, one or more
15 buildings, structures or other improvements, machinery and
16 equipment, whether now existing or hereafter acquired, and
17 whether or not located on the same site or sites; (ii) all
18 appurtenances and facilities incidental to the foregoing,
19 including, but not limited to utilities, access roads, railroad
20 sidings, track, docking and similar facilities, parking
21 facilities, dockage, wharfage, railroad roadbed, track,
22 trestle, depot, terminal, switching and signaling or related
23 equipment, site preparation and landscaping; and (iii) all
24 non-capital costs and expenses relating thereto or (2) any
25 addition to, renovation, rehabilitation or improvement of a
26 capital project or (3) any activity or undertaking which the

1 Authority determines will aid, assist or encourage economic
2 growth, development or redevelopment within the State or any
3 area thereof, will promote the expansion, retention or
4 diversification of employment opportunities within the State
5 or any area thereof or will aid in stabilizing or developing
6 any industry or economic sector of the State economy. The term
7 "industrial project" also means the production of motion
8 pictures.

9 (e) The term "bond" or "bonds" shall include bonds, notes
10 (including bond, grant or revenue anticipation notes),
11 certificates and/or other evidences of indebtedness
12 representing an obligation to pay money, including refunding
13 bonds.

14 (f) The terms "lease agreement" and "loan agreement" shall
15 mean: (i) an agreement whereby a project acquired by the
16 Authority by purchase, gift or lease is leased to any person,
17 corporation or unit of local government which will use or cause
18 the project to be used as a project as heretofore defined upon
19 terms providing for lease rental payments at least sufficient
20 to pay when due all principal of, interest and premium, if any,
21 on any bonds of the Authority issued with respect to such
22 project, providing for the maintenance, insuring and operation
23 of the project on terms satisfactory to the Authority,
24 providing for disposition of the project upon termination of
25 the lease term, including purchase options or abandonment of
26 the premises, and such other terms as may be deemed desirable

1 by the Authority, or (ii) any agreement pursuant to which the
2 Authority agrees to loan the proceeds of its bonds issued with
3 respect to a project or other funds of the Authority to any
4 person which will use or cause the project to be used as a
5 project as heretofore defined upon terms providing for loan
6 repayment installments at least sufficient to pay when due all
7 principal of, interest and premium, if any, on any bonds of the
8 Authority, if any, issued with respect to the project, and
9 providing for maintenance, insurance and other matters as may
10 be deemed desirable by the Authority.

11 (g) The term "financial aid" means the expenditure of
12 Authority funds or funds provided by the Authority through the
13 issuance of its bonds, notes or other evidences of indebtedness
14 or from other sources for the development, construction,
15 acquisition or improvement of a project.

16 (h) The term "person" means an individual, corporation,
17 unit of government, business trust, estate, trust, partnership
18 or association, 2 or more persons having a joint or common
19 interest, or any other legal entity.

20 (i) The term "unit of government" means the federal
21 government, the State or unit of local government, a school
22 district, or any agency or instrumentality, office, officer,
23 department, division, bureau, commission, college or
24 university thereof.

25 (j) The term "health facility" means: (a) any public or
26 private institution, place, building, or agency required to be

1 licensed under the Hospital Licensing Act; (b) any public or
2 private institution, place, building, or agency required to be
3 licensed under the Nursing Home Care Act; (c) any public or
4 licensed private hospital as defined in the Mental Health and
5 Developmental Disabilities Code; (d) any such facility
6 exempted from such licensure when the Director of Public Health
7 attests that such exempted facility meets the statutory
8 definition of a facility subject to licensure; (e) any other
9 public or private health service institution, place, building,
10 or agency which the Director of Public Health attests is
11 subject to certification by the Secretary, U.S. Department of
12 Health and Human Services under the Social Security Act, as now
13 or hereafter amended, or which the Director of Public Health
14 attests is subject to standard-setting by a recognized public
15 or voluntary accrediting or standard-setting agency; (f) any
16 public or private institution, place, building or agency
17 engaged in providing one or more supporting services to a
18 health facility; (g) any public or private institution, place,
19 building or agency engaged in providing training in the healing
20 arts, including but not limited to schools of medicine,
21 dentistry, osteopathy, optometry, podiatry, pharmacy or
22 nursing, schools for the training of x-ray, laboratory or other
23 health care technicians and schools for the training of
24 para-professionals in the health care field; (h) any public or
25 private congregate, life or extended care or elderly housing
26 facility or any public or private home for the aged or infirm,

1 including, without limitation, any Facility as defined in the
2 Life Care Facilities Act; (i) any public or private mental,
3 emotional or physical rehabilitation facility or any public or
4 private educational, counseling, or rehabilitation facility or
5 home, for those persons with a developmental disability, those
6 who are physically ill or disabled, the emotionally disturbed,
7 those persons with a mental illness or persons with learning or
8 similar disabilities or problems; (j) any public or private
9 alcohol, drug or substance abuse diagnosis, counseling
10 treatment or rehabilitation facility, (k) any public or private
11 institution, place, building or agency licensed by the
12 Department of Children and Family Services or which is not so
13 licensed but which the Director of Children and Family Services
14 attests provides child care, child welfare or other services of
15 the type provided by facilities subject to such licensure; (l)
16 any public or private adoption agency or facility; and (m) any
17 public or private blood bank or blood center. "Health facility"
18 also means a public or private structure or structures suitable
19 primarily for use as a laboratory, laundry, nurses or interns
20 residence or other housing or hotel facility used in whole or
21 in part for staff, employees or students and their families,
22 patients or relatives of patients admitted for treatment or
23 care in a health facility, or persons conducting business with
24 a health facility, physician's facility, surgicenter,
25 administration building, research facility, maintenance,
26 storage or utility facility and all structures or facilities

1 related to any of the foregoing or required or useful for the
2 operation of a health facility, including parking or other
3 facilities or other supporting service structures required or
4 useful for the orderly conduct of such health facility.

5 (k) The term "participating health institution" means a
6 private corporation or association or public entity of this
7 State, authorized by the laws of this State to provide or
8 operate a health facility as defined in this Act and which,
9 pursuant to the provisions of this Act, undertakes the
10 financing, construction or acquisition of a project or
11 undertakes the refunding or refinancing of obligations, loans,
12 indebtedness or advances as provided in this Act.

13 (l) The term "health facility project", means a specific
14 health facility work or improvement to be financed or
15 refinanced (including without limitation through reimbursement
16 of prior expenditures), acquired, constructed, enlarged,
17 remodeled, renovated, improved, furnished, or equipped, with
18 funds provided in whole or in part hereunder, any accounts
19 receivable, working capital, liability or insurance cost or
20 operating expense financing or refinancing program of a health
21 facility with or involving funds provided in whole or in part
22 hereunder, or any combination thereof.

23 (m) The term "bond resolution" means the resolution or
24 resolutions authorizing the issuance of, or providing terms and
25 conditions related to, bonds issued under this Act and
26 includes, where appropriate, any trust agreement, trust

1 indenture, indenture of mortgage or deed of trust providing
2 terms and conditions for such bonds.

3 (n) The term "property" means any real, personal or mixed
4 property, whether tangible or intangible, or any interest
5 therein, including, without limitation, any real estate,
6 leasehold interests, appurtenances, buildings, easements,
7 equipment, furnishings, furniture, improvements, machinery,
8 rights of way, structures, accounts, contract rights or any
9 interest therein.

10 (o) The term "revenues" means, with respect to any project,
11 the rents, fees, charges, interest, principal repayments,
12 collections and other income or profit derived therefrom.

13 (p) The term "higher education project" means, in the case
14 of a private institution of higher education, an educational
15 facility to be acquired, constructed, enlarged, remodeled,
16 renovated, improved, furnished, or equipped, or any
17 combination thereof.

18 (q) The term "cultural institution project" means, in the
19 case of a cultural institution, a cultural facility to be
20 acquired, constructed, enlarged, remodeled, renovated,
21 improved, furnished, or equipped, or any combination thereof.

22 (r) The term "educational facility" means any property
23 located within the State constructed or acquired before or
24 after the effective date of this Act, which is or will be, in
25 whole or in part, suitable for the instruction, feeding,
26 recreation or housing of students, the conducting of research

1 or other work of a private institution of higher education, the
2 use by a private institution of higher education in connection
3 with any educational, research or related or incidental
4 activities then being or to be conducted by it, or any
5 combination of the foregoing, including, without limitation,
6 any such property suitable for use as or in connection with any
7 one or more of the following: an academic facility,
8 administrative facility, agricultural facility, assembly hall,
9 athletic facility, auditorium, boating facility, campus,
10 communication facility, computer facility, continuing
11 education facility, classroom, dining hall, dormitory,
12 exhibition hall, fire fighting facility, fire prevention
13 facility, food service and preparation facility, gymnasium,
14 greenhouse, health care facility, hospital, housing,
15 instructional facility, laboratory, library, maintenance
16 facility, medical facility, museum, offices, parking area,
17 physical education facility, recreational facility, research
18 facility, stadium, storage facility, student union, study
19 facility, theatre or utility.

20 (s) The term "cultural facility" means any property located
21 within the State constructed or acquired before or after the
22 effective date of this Act, which is or will be, in whole or in
23 part, suitable for the particular purposes or needs of a
24 cultural institution, including, without limitation, any such
25 property suitable for use as or in connection with any one or
26 more of the following: an administrative facility, aquarium,

1 assembly hall, auditorium, botanical garden, exhibition hall,
2 gallery, greenhouse, library, museum, scientific laboratory,
3 theater or zoological facility, and shall also include, without
4 limitation, books, works of art or music, animal, plant or
5 aquatic life or other items for display, exhibition or
6 performance. The term "cultural facility" includes buildings
7 on the National Register of Historic Places which are owned or
8 operated by nonprofit entities.

9 (t) "Private institution of higher education" means a
10 not-for-profit educational institution which is not owned by
11 the State or any political subdivision, agency,
12 instrumentality, district or municipality thereof, which is
13 authorized by law to provide a program of education beyond the
14 high school level and which:

15 (1) Admits as regular students only individuals having
16 a certificate of graduation from a high school, or the
17 recognized equivalent of such a certificate;

18 (2) Provides an educational program for which it awards
19 a bachelor's degree, or provides an educational program,
20 admission into which is conditioned upon the prior
21 attainment of a bachelor's degree or its equivalent, for
22 which it awards a postgraduate degree, or provides not less
23 than a 2-year program which is acceptable for full credit
24 toward such a degree, or offers a 2-year program in
25 engineering, mathematics, or the physical or biological
26 sciences which is designed to prepare the student to work

1 as a technician and at a semiprofessional level in
2 engineering, scientific, or other technological fields
3 which require the understanding and application of basic
4 engineering, scientific, or mathematical principles or
5 knowledge;

6 (3) Is accredited by a nationally recognized
7 accrediting agency or association or, if not so accredited,
8 is an institution whose credits are accepted, on transfer,
9 by not less than 3 institutions which are so accredited,
10 for credit on the same basis as if transferred from an
11 institution so accredited, and holds an unrevoked
12 certificate of approval under the Private College Act from
13 the Board of Higher Education, or is qualified as a "degree
14 granting institution" under the Academic Degree Act; and

15 (4) Does not discriminate in the admission of students
16 on the basis of race or color. "Private institution of
17 higher education" also includes any "academic
18 institution".

19 (u) The term "academic institution" means any
20 not-for-profit institution which is not owned by the State or
21 any political subdivision, agency, instrumentality, district
22 or municipality thereof, which institution engages in, or
23 facilitates academic, scientific, educational or professional
24 research or learning in a field or fields of study taught at a
25 private institution of higher education. Academic institutions
26 include, without limitation, libraries, archives, academic,

1 scientific, educational or professional societies,
2 institutions, associations or foundations having such
3 purposes.

4 (v) The term "cultural institution" means any
5 not-for-profit institution which is not owned by the State or
6 any political subdivision, agency, instrumentality, district
7 or municipality thereof, which institution engages in the
8 cultural, intellectual, scientific, educational or artistic
9 enrichment of the people of the State. Cultural institutions
10 include, without limitation, aquaria, botanical societies,
11 historical societies, libraries, museums, performing arts
12 associations or societies, scientific societies and zoological
13 societies.

14 (w) The term "affiliate" means, with respect to financing
15 of an agricultural facility or an agribusiness, any lender, any
16 person, firm or corporation controlled by, or under common
17 control with, such lender, and any person, firm or corporation
18 controlling such lender.

19 (x) The term "agricultural facility" means land, any
20 building or other improvement thereon or thereto, and any
21 personal properties deemed necessary or suitable for use,
22 whether or not now in existence, in farming, ranching, the
23 production of agricultural commodities (including, without
24 limitation, the products of aquaculture, hydroponics and
25 silviculture) or the treating, processing or storing of such
26 agricultural commodities when such activities are customarily

1 engaged in by farmers as a part of farming.

2 (y) The term "lender" with respect to financing of an
3 agricultural facility or an agribusiness, means any federal or
4 State chartered bank, Federal Land Bank, Production Credit
5 Association, Bank for Cooperatives, federal or State chartered
6 savings and loan association or building and loan association,
7 Small Business Investment Company or any other institution
8 qualified within this State to originate and service loans,
9 including, but without limitation to, insurance companies,
10 credit unions and mortgage loan companies. "Lender" also means
11 a wholly owned subsidiary of a manufacturer, seller or
12 distributor of goods or services that makes loans to businesses
13 or individuals, commonly known as a "captive finance company".

14 (z) The term "agribusiness" means any sole proprietorship,
15 limited partnership, co-partnership, joint venture,
16 corporation or cooperative which operates or will operate a
17 facility located within the State of Illinois that is related
18 to the processing of agricultural commodities (including,
19 without limitation, the products of aquaculture, hydroponics
20 and silviculture) or the manufacturing, production or
21 construction of agricultural buildings, structures, equipment,
22 implements, and supplies, or any other facilities or processes
23 used in agricultural production. Agribusiness includes but is
24 not limited to the following:

25 (1) grain handling and processing, including grain
26 storage, drying, treatment, conditioning, mailing and

1 packaging;

2 (2) seed and feed grain development and processing;

3 (3) fruit and vegetable processing, including
4 preparation, canning and packaging;

5 (4) processing of livestock and livestock products,
6 dairy products, poultry and poultry products, fish or
7 apiarian products, including slaughter, shearing,
8 collecting, preparation, canning and packaging;

9 (5) fertilizer and agricultural chemical
10 manufacturing, processing, application and supplying;

11 (6) farm machinery, equipment and implement
12 manufacturing and supplying;

13 (7) manufacturing and supplying of agricultural
14 commodity processing machinery and equipment, including
15 machinery and equipment used in slaughter, treatment,
16 handling, collecting, preparation, canning or packaging of
17 agricultural commodities;

18 (8) farm building and farm structure manufacturing,
19 construction and supplying;

20 (9) construction, manufacturing, implementation,
21 supplying or servicing of irrigation, drainage and soil and
22 water conservation devices or equipment;

23 (10) fuel processing and development facilities that
24 produce fuel from one or more of the following sources: (i)
25 agricultural commodities or byproducts; (ii) vegetable
26 oils, including but not limited to soy bean oils, or animal

1 fats; or (iii) biomass feedstocks, including but not
2 limited to agricultural plant wastes, plant wastes from
3 industrial processes, and energy crops grown specifically
4 for fuel production, including but not limited to
5 switchgrass;

6 (11) facilities and equipment for processing and
7 packaging agricultural commodities specifically for
8 export;

9 (12) facilities and equipment for forestry product
10 processing and supplying, including sawmilling operations,
11 wood chip operations, timber harvesting operations, and
12 manufacturing of prefabricated buildings, paper, furniture
13 or other goods from forestry products;

14 (13) facilities and equipment for research and
15 development of products, processes and equipment for the
16 production, processing, preparation or packaging of
17 agricultural commodities and byproducts.

18 (z-1) The term "energy-related agribusiness" means any
19 sole proprietorship, limited partnership, co-partnership,
20 joint venture, corporation, or cooperative that operates or
21 will operate a facility located within the State of Illinois
22 that is described in clause (10) of the definition of
23 agribusiness.

24 (aa) The term "asset" with respect to financing of any
25 agricultural facility or any agribusiness, means, but is not
26 limited to the following: cash crops or feed on hand; livestock

1 held for sale; breeding stock; marketable bonds and securities;
2 securities not readily marketable; accounts receivable; notes
3 receivable; cash invested in growing crops; net cash value of
4 life insurance; machinery and equipment; cars and trucks; farm
5 and other real estate including life estates and personal
6 residence; value of beneficial interests in trusts; government
7 payments or grants; and any other assets.

8 (bb) The term "liability" with respect to financing of any
9 agricultural facility or any agribusiness shall include, but
10 not be limited to the following: accounts payable; notes or
11 other indebtedness owed to any source; taxes; rent; amounts
12 owed on real estate contracts or real estate mortgages;
13 judgments; accrued interest payable; and any other liability.

14 (cc) The term "Predecessor Authorities" means those
15 authorities as described in Section 845-75.

16 (dd) The term "housing project" means a specific work or
17 improvement undertaken to provide residential dwelling
18 accommodations, including the acquisition, construction or
19 rehabilitation of lands, buildings and community facilities
20 and in connection therewith to provide nonhousing facilities
21 which are part of the housing project, including land,
22 buildings, improvements, equipment and all ancillary
23 facilities for use for offices, stores, retirement homes,
24 hotels, financial institutions, service, health care,
25 education, recreation or research establishments, or any other
26 commercial purpose which are or are to be related to a housing

1 development.

2 (Source: P.A. 93-205, eff. 1-1-04; 93-1101, eff. 3-31-05.)

3 (20 ILCS 3501/830-25)

4 Sec. 830-25. Bonded indebtedness limitation. The Authority
5 shall not have outstanding at any one time State Guarantees
6 under Section 830-30 in an aggregate principal amount exceeding
7 \$160,000,000. The Authority shall not have outstanding at any
8 one time State Guarantees under Sections 830-35, 830-45 and
9 830-50, other than State Guarantees under Section 830-35 for
10 energy-related agribusiness, in an aggregate principal amount
11 exceeding \$75,000,000. The Authority shall not have
12 outstanding at any one time State Guarantees under Section
13 830-35 for energy-related agribusinesses in an aggregate
14 principal amount exceeding \$340,000,000.

15 (Source: P.A. 93-205, eff. 1-1-04.)

16 (20 ILCS 3501/830-35)

17 Sec. 830-35. State Guarantees for loans to farmers and
18 agribusiness; eligibility.

19 (a) The Authority is authorized to issue State Guarantees
20 to lenders for loans to eligible farmers and agribusinesses, l
21 including energy-related agribusinesses, for purposes set
22 forth in this Section. For purposes of this Section, an
23 eligible farmer shall be a resident of Illinois (i) who is
24 principal operator of a farm or land, at least 50% of whose

1 annual gross income is derived from farming, (ii) whose annual
2 total sales of agricultural products, commodities, or
3 livestock exceeds \$20,000, and (iii) whose net worth does not
4 exceed \$500,000. An eligible agribusiness shall be that as
5 defined in Section 801-10 of this Act. The Authority may
6 approve applications by farmers and agribusinesses that
7 promote diversification of the farm economy of this State
8 through the growth and development of new crops or livestock
9 not customarily grown or produced in this State or that
10 emphasize a vertical integration of grain or livestock produced
11 or raised in this State into a finished agricultural product
12 for consumption or use. The Authority may approve applications
13 by energy-related agribusinesses that help replace the State's
14 dependence on foreign oil with homegrown alternatives and
15 provide alternatives to the high cost of gasoline, stabilize
16 energy prices, or give Illinois farmers new markets for their
17 crops. "New crops or livestock not customarily grown or
18 produced in this State" shall not include corn, soybeans,
19 wheat, swine, or beef or dairy cattle. "Vertical integration of
20 grain or livestock produced or raised in this State" shall
21 include any new or existing grain or livestock grown or
22 produced in this State. Lenders shall apply for the State
23 Guarantees on forms provided by the Authority, certify that the
24 application and any other documents submitted are true and
25 correct, and pay an administrative fee as determined by the
26 Authority. The applicant shall be responsible for paying any

1 fees or charges involved in recording mortgages, releases,
2 financing statements, insurance for secondary market issues
3 and any other similar fees or charges as the Authority may
4 require. The application shall at a minimum contain the
5 farmer's or agribusiness' name, address, present credit and
6 financial information, including cash flow statements,
7 financial statements, balance sheets, and any other
8 information pertinent to the application, and the collateral to
9 be used to secure the State Guarantee. In addition, the lender
10 must agree to charge an interest rate, which may vary, on the
11 loan that the Authority determines to be below the market rate
12 of interest generally available to the borrower. If both the
13 lender and applicant agree, the interest rate on the State
14 Guarantee Loan can be converted to a fixed interest rate at any
15 time during the term of the loan. Except for State Guarantees
16 for energy-related agribusinesses, any ~~Any~~ State Guarantees
17 provided under this Section (i) shall not exceed \$500,000 per
18 farmer or an amount as determined by the Authority on a
19 case-by-case basis for an agribusiness, (ii) shall not exceed a
20 term of 15 years, and (iii) shall be subject to an annual
21 review and renewal by the lender and the Authority; provided
22 that only one such State Guarantee shall be made per farmer or
23 agribusiness, except that additional State Guarantees may be
24 made for purposes of expansion of projects financed in part by
25 a previously issued State Guarantee. State Guarantees for any
26 energy-related agribusinesses shall not exceed \$10,000,000 for

1 any one project; provided that State Guarantees for any
2 energy-related agribusiness that is classified as a bio-diesel
3 project shall not exceed \$20,000,000 for any one project. State
4 Guarantees for any energy-related agribusiness shall not
5 exceed a term of 10 years. State Guarantees for any
6 energy-related agribusiness shall be subject to review and
7 renewal by the lender and the Authority, as frequently as
8 determined by the Authority, provided that such review and
9 renewal shall occur at least every 3 years. Only one State
10 Guarantee shall be made for any energy-related agribusiness at
11 a particular site or location. No State Guarantee shall be
12 revoked by the Authority without a 90-day notice, in writing,
13 to all parties. The lender shall not call due any loan for any
14 reason except for lack of performance, insufficient
15 collateral, or maturity. A lender may review and withdraw or
16 continue with a State Guarantee on an annual basis after the
17 first 5 years following closing of the loan application if the
18 loan contract provides for an interest rate that shall not
19 vary. A lender shall not withdraw a State Guarantee if the loan
20 contract provides for an interest rate that may vary, except
21 for reasons set forth herein.

22 (b) The Authority shall provide or renew a State Guarantee
23 to a lender if:

24 (i) A fee equal to 25 basis points on the loan is paid
25 to the Authority on an annual basis by the lender.

26 (ii) The application provides collateral acceptable to

1 the Authority that is at least equal to the State's portion
2 of the Guarantee to be provided.

3 (iii) The lender assumes all responsibility and costs
4 for pursuing legal action on collecting any loan that is
5 delinquent or in default.

6 (iv) The lender is responsible for the first 15% of the
7 outstanding principal of the note for which the State
8 Guarantee has been applied.

9 (c) There is hereby created outside of the State treasury a
10 special fund to be known as the Illinois Farmer and
11 Agribusiness Loan Guarantee Fund. The State Treasurer shall be
12 custodian of this Fund. Any amounts in the Fund not currently
13 needed to meet the obligations of the Fund shall be invested as
14 provided by law, and all interest earned from these investments
15 shall be deposited into the Fund until the Fund reaches the
16 maximum amounts authorized in this Act; thereafter, interest
17 earned shall be deposited into the General Revenue Fund. After
18 September 1, 1989, annual investment earnings equal to 1.5% of
19 the Fund shall remain in the Fund to be used for the purposes
20 established in Section 830-40 of this Act. The Authority is
21 authorized to transfer such amounts as are necessary to satisfy
22 claims from available appropriations and from fund balances of
23 the Farm Emergency Assistance Fund as of June 30 of each year
24 to the Illinois Farmer and Agribusiness Loan Guarantee Fund to
25 secure State Guarantees issued under this Section and Sections
26 830-45 and 830-50. If for any reason the General Assembly fails

1 to make an appropriation sufficient to meet these obligations,
2 this Act shall constitute an irrevocable and continuing
3 appropriation of an amount necessary to secure guarantees as
4 defaults occur and the irrevocable and continuing authority
5 for, and direction to, the State Treasurer and the Comptroller
6 to make the necessary transfers to the Illinois Farmer and
7 Agribusiness Loan Guarantee Fund, as directed by the Governor,
8 out of the General Revenue Fund. In the event of default by the
9 borrower on State Guarantee Loans under this Section, Section
10 830-45 or Section 830-50, the lender shall be entitled to, and
11 the Authority shall direct payment on, the State Guarantee
12 after 90 days of delinquency. All payments by the Authority
13 shall be made from the Illinois Farmer and Agribusiness Loan
14 Guarantee Fund to satisfy claims against the State Guarantee.
15 It shall be the responsibility of the lender to proceed with
16 the collecting and disposing of collateral on the State
17 Guarantee under this Section, Section 830-45 or Section 830-50
18 within 14 months of the time the State Guarantee is declared
19 delinquent. If the lender does not dispose of the collateral
20 within 14 months, the lender shall be liable to repay to the
21 State interest on the State Guarantee equal to the same rate
22 that the lender charges on the State Guarantee, provided that
23 the Authority shall have the authority to extend the 14-month
24 period for a lender in the case of bankruptcy or extenuating
25 circumstances. The Fund shall be reimbursed for any amounts
26 paid under this Section, Section 830-45 or Section 830-50 upon

1 liquidation of the collateral. The Authority, by resolution of
2 the Board, may borrow sums from the Fund and provide for
3 repayment as soon as may be practical upon receipt of payments
4 of principal and interest by a borrower on State Guarantee
5 Loans under this Section, Section 830-45 or Section 830-50.
6 Money may be borrowed from the Fund by the Authority for the
7 sole purpose of paying certain interest costs for borrowers
8 associated with selling a loan subject to a State Guarantee
9 under this Section, Section 830-45 or Section 830-50 in a
10 secondary market as may be deemed reasonable and necessary by
11 the Authority.

12 (d) Notwithstanding the provisions of this Section 830-35
13 with respect to the farmers, agribusinesses, and lenders who
14 may obtain State Guarantees, the Authority may promulgate rules
15 establishing the eligibility of farmers, agribusinesses, and
16 lenders to participate in the State Guarantee program and the
17 terms, standards, and procedures that will apply, when the
18 Authority finds that emergency conditions in Illinois
19 agriculture have created the need for State Guarantees pursuant
20 to terms, standards, and procedures other than those specified
21 in this Section.

22 (Source: P.A. 93-205, eff. 1-1-04.)